

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION.

Plaintiff-Applicant,

V.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

SIPA Liquidation

No. 08-01789 (CGM)

(Substantively Consolidated)

In re

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

Adv. Pro. No. 10-05345 (CGM)

V.

CITIBANK, N.A., CITICORP NORTH
AMERICA, INC., AND CITIGROUP GLOBAL
MARKETS LIMITED,

Defendants.

X

**DECLARATION OF CARMINE D. BOCCUZZI, JR.
IN SUPPORT OF THE CITI DEFENDANTS' MOTION TO DISMISS
THE AMENDED COMPLAINT**

Pursuant to 28 U.S.C. § 1746, I, Carmine D. Boccuzzi, Jr., declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge:

1. I am an attorney admitted to practice before this Court, a partner at Cleary Gottlieb Steen & Hamilton LLP, and counsel to defendants Citibank, N.A., Citicorp North America, Inc. and Citigroup Global Markets Limited (collectively, the “Citi Defendants”).
2. I respectfully submit this Declaration in support of the Citi Defendants’ Motion to Dismiss the Trustee’s Amended Complaint.
3. On May 18, 2009, Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC (the “Trustee”), sued Fairfield Sentry Limited (“Fairfield Sentry”) and its affiliates to avoid and recover, among other things, approximately \$3 billion in alleged customer property transferred from Bernard L. Madoff Investment Securities LLC (“BLMIS”) to Fairfield Sentry. *See* Fairfield Sentry Amended Complaint, *Picard v. Fairfield Sentry Ltd.*, No. 09-1239 (Bankr. S.D.N.Y. July 20, 2010), Dkt. No. 23.
4. The Trustee has brought adversary proceedings against over ninety defendants, seeking to recover alleged subsequent transfers of BLMIS customer property that these defendants allegedly received from Fairfield Sentry. These adversary proceedings and defendants are listed in Exhibit A to this Declaration.
5. Based on a review of the proceedings listed in Exhibit A to this Declaration, the total amount of post-May 9, 2003 subsequent transfers of property claimed by the Trustee against all defendants totals \$5,011,936,278—approximately \$2 billion dollars more than the total amount of BLMIS customer property allegedly transferred to Fairfield Sentry itself.
6. The Trustee alleges that on April 14, 2008, \$60 million of BLMIS property was subsequently transferred by Fairfield Sentry to Citigroup Global Markets Limited (“CGML”).

See Am. Compl ¶¶ 4, 180-90, Ex. C., Picard v. Citibank, N.A., Adv. Pro. No. 10-05345 (Bankr. S.D.N.Y. Feb. 11, 2022), Dkt. No. 214 (“Amended Complaint” or “Am. Compl.”).

7. In the seven months preceding the alleged April 14, 2008 Fairfield Sentry-to-CGML transfer, Fairfield Sentry received a total of \$230 million from BLMIS: \$65 million on September 6, 2007, \$95 million on October 5, 2007, and \$70 million on January 11, 2008. *See Am. Compl., Ex. B.*

8. Based on a review of the proceedings listed in Exhibit A to this Declaration, the Trustee alleges that Fairfield Sentry paid out at least \$483 million in subsequent transfers during that same seven-month period: at least \$117 million between September 6, 2007 and October 5, 2007; at least \$225 million between October 5, 2007 and January 10, 2008; and at least \$141 million between January 11, 2008 and April 14, 2008.

9. Thus, based on a review of the proceedings listed in Exhibit A, the Trustee alleges that Fairfield Sentry’s alleged subsequent transfers of BLMIS property outpaced its receipt of BLMIS property by at least \$253 million in the seven months preceding Fairfield Sentry’s alleged subsequent transfer of BLMIS customer property to CGML. *See supra ¶¶ 7-8.*

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 22, 2022 in New York, New York

By: 
Carmine D. Boccuzzi, Jr.

EXHIBIT A

Defendants Which Allegedly Received BLMIS Property From Fairfield Sentry

10-05345	Citibank, N.A., et al
10-05346	Merrill Lynch International
10-05348	Nomura International PLC
10-05351	Banco Bilbao Vizcaya Argentaria, S.A.
11-01724	Pictet et Cie.
11-01885	Safra New York
11-02149	Banque Syz & Co., SA
11-02493	Abu Dhabi Investment Authority
11-02537	Orbita
11-02538	Quilvest Finance Ltd.
11-02539	Meritz Fire & Insurance Co. Ltd.
11-02540	Lion Global Investors Limited
11-02541	First Gulf Bank
11-02542	Parson Finance Panama S.A.
11-02551	Delta National Bank and Trust Company
11-02553	Unifortune Asset Management SGR SpA, et al.
11-02554	National Bank of Kuwait S.A.K.
11-02568	Cathay Life Insurance Co. LTD.
11-02568	Cathay Bank
11-02569	Barclays Private Bank
11-02569	Barclays Spain
11-02569	Barclays Bank (Suisse) S.A. et al.
11-02570	Banca Carige S.P.A.
11-02571	BPES
11-02572	Korea Exchange Bank
11-02573	The Sumitomo Trust and Banking Co., Ltd.
11-02730	Atlantic Security Bank
11-02731	Trincaster Corporation
11-02732	Bureau of Labor Insurance
11-02733	Naidot & Co.
11-02758	Caceis Bank Luxembourg, et al.
11-02760	ABN Amro Bank N.V., et al.
11-02762	Lighthouse Diversified
11-02762	Lighthouse Supercash
11-02763	Inteligo Bank LTD.
11-02784	Somers Dublin Limited et al.
11-02910	Merrill Lynch Bank (Suisse) SA
11-02922	Bank Julius Baer & Co. Ltd.
11-02923	Falcon Private Bank Ltd.
11-02925	Credit Suisse AG et al.

11-02929	LGT Bank in Liechtenstein Ltd.
12-01002	The Public Institution For Social Security
12-01004	Fullerton Capital PTE Ltd.
12-01005	SICO Limited
12-01019	Banco Itau Europa Luxembourg S.A., et al.
12-01019	Banco Itau International
12-01021	Grosvenor Aggressive
12-01021	Grosvenor Balanced
12-01021	Grosvenor Private
12-01022	Credit Agricole (Suisse) SA
12-01023	Arden Asset Management, et al.
12-01046	SNS Bank N.V. et al.
12-01047	Koch Industries, Inc.
12-01048	Banco General S.A. et al.
12-01194	Kookmin Bank
12-01195	Six Sis AG
12-01202	Bank Vontobel AG et. al.
12-01205	Multi Strategy Fund Ltd., et al.
12-01207	Lloyds TSB Bank PLC
12-01209	BSI AG
12-01209	Banca del Gottardo
12-01210	Schroder & Co.
12-01211	Union Securities Investment Trust Co., Ltd., et al.
12-01211	Union Global Fund
12-01211	Union Strategy Fund
12-01216	Bank Hapoalim Switzerland
12-01216	Bank Hapoalim B.M.
12-01512	ZCM Asset Holding Co (Bermuda) LLC
12-01513	Citivic Nominees Ltd.
12-01565	Standard Chartered Financial Services (Luxembourg) SA, et al.
12-01566	UKFP (Asia) Nominees
12-01576	BNP Paribas S.A. et al
12-01577	UBS Deutschland AG, et al.
12-01577	LGT Switzerland
12-01669	Barfield Nominees Limited et al
12-01670	Credit Agricole Corporate and Investment Bank/BBH
12-01676	Clariden Leu AG
12-01677	Societe General Private Banking (Suisse) SA, et al.
12-01680	Intesa Sanpaolo SpA-Low Volatility
12-01680	Intesa Sanpaolo SpA-Medium Volatility
12-01690	EFG Bank S.A., et al.
12-01691	Banque Degroof Luxembourg
12-01691	Banque Degroof
12-01693	Banque Lombard Odier & Cie

12-01694	Banque Cantonale Vaudoise
12-01695	Bordier & Cie
12-01697	ABN AMRO Fund Services (Isle of Man) Nominees Limited, et al.
12-01698	Banque International a Luxembourg SA/Dexia
12-01699	Royal Bank of Canada, et al.
09-01239	Fairfield Sigma
09-01239	Fairfield Lambda
09-01239	Fif Advanced Limited
09-01239	Fairfield Investment Fund Limited
09-01239	Fairfield Greenwich Limited
09-01239	Fairfield Greenwich (Bermuda) Limited
09-01239	Fairfield Greenwich Advisors